

Assembly Bill No. 2670

Passed the Assembly August 28, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 17131, 17731, and 19109 of, to amend and renumber Section 17132.6 of, to add Section 19559 to, and to repeal and add Section 18572 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2670, Wyman. Income taxes: victims of terrorism.

The Personal Income Tax Law provides for, in specified conformity to federal income tax laws, the exclusion of certain items from gross income, the tax treatment of certain survivor benefits, provisions relating to estates, trusts, beneficiaries, and decedents, postponement of certain tax deadlines, and disclosure of tax return information.

This bill would also provide conformity to the federal Victims of Terrorism Tax Relief Act of 2001, as specified.

Existing law provides for the waiver of interest accrued against the income tax liability of an individual during a filing extension period authorized for individuals determined to be affected by a presidentially declared disaster, if that individual is located in an area affected by a presidentially declared disaster or in a county or city that is proclaimed by the Governor to be in a state of disaster.

This bill would extend this waiver provision to any taxpayer, including a business entity, located in an area affected by a presidentially declared disaster or in a county or city proclaimed by the Governor to be in a state of disaster.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 17131 of the Revenue and Taxation Code is amended to read:

17131. Part III of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, as amended by Sections 111 and 113 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134), relating to items that are specifically excluded from gross income, shall apply, except as otherwise provided.



SEC. 2. Section 17132.6 of the Revenue and Taxation Code, as amended by Section 20 of Chapter 322 of the Statutes of 1998, is amended and renumbered to read:

17132.5. Section 101 of the Internal Revenue Code, relating to certain death benefits, is modified as follows:

(a) Section 101(h) of the Internal Revenue Code, relating to survivor benefits attributable to service by a public safety officer who is killed in the line of duty, is modified to apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after December 31, 1996.

(b) (1) The amendments made to Section 101 of the Internal Revenue Code by Section 102 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134) shall apply to taxable years ending before, on, or after September 11, 2001.

(2) If a refund or a credit of any overpayment of tax resulting from the amendments made by the act amending and renumbering this section is precluded at any time before the close of the one-year period beginning on the operative date of that act by the operation of any law or rule of law, including res judicata, that refund or credit may nevertheless be made or allowed if a claim therefor is filed on or before the close of that one-year period.

SEC. 3. Section 17731 of the Revenue and Taxation Code is amended to read:

17731. (a) Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to estates, trusts, beneficiaries, and decedents, shall apply, except as otherwise provided.

(b) (1) (A) The amendments made to Section 692 of the Internal Revenue Code by Section 101 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134) shall apply to taxable years ending before, on, or after September 11, 2001, except as otherwise provided.

(B) Section 692(d)(2) of the Internal Revenue Code, relating to the ten thousand dollar (\$10,000) minimum benefit, does not apply.

(2) The amendments made to Sections 642 and 692 of the Internal Revenue Code by Sections 113 and 116 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134) shall apply to taxable years ending on or after September 11, 2001.

(c) If a refund or a credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time



before the close of the one-year period beginning on the date of enactment of this act by the operation of any law or rule of law (including *res judicata*), that refund or credit may nevertheless be made or allowed if a claim therefor is filed on or before the close of that one-year period.

SEC. 4. Section 18572 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 18572 is added to the Revenue and Taxation Code, to read:

18572. (a) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax related deadlines, shall apply, except as otherwise provided.

(b) The amendments made to Section 7508A of the Internal Revenue Code by Section 112 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134) shall apply to disasters and terroristic or military actions occurring on or after September 11, 2001, with respect to any action of the Secretary of the Treasury, the Secretary of Labor, or the Pension Benefit Guaranty Corporation occurring on or after January 23, 2002.

SEC. 6. Section 19109 of the Revenue and Taxation Code is amended to read:

19109. (a) If the Franchise Tax Board extends for any period the time for filing a return under Section 18572 or subdivision (a) of Section 18567 and the time for paying the tax under Section 18572 or subdivision (c) of Section 18567 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a presidentially declared disaster area or any county or city in this state which is proclaimed by the Governor to be in a state of disaster that incurred a loss, the Franchise Tax Board shall, notwithstanding subdivision (b) of Section 18572, abate for that period the assessment of any interest prescribed under this article on that tax.

(b) For purposes of subdivision (a), the term “presidentially declared disaster area” means, with respect to any taxpayer, any area which the President has determined warrants assistance by the federal government under the Disaster Relief and Emergency Assistance Act.

SEC. 7. Section 19559 is added to the Revenue and Taxation Code, to read:



19559. (a) (1) The Franchise Tax Board may disclose returns and return information to federal agencies on the same terms and to the same extent as returns and return information may be disclosed by the Secretary of the Treasury under paragraph (3)(C) or paragraph (7) of Section 6103 (i) of the Internal Revenue Code, as amended by Section 201 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134).

(2) Notwithstanding paragraph (1), the Franchise Tax Board may not disclose any return or return information under this section if the Franchise Tax Board determines, in the manner specified by the board, that this disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(b) This section shall apply to disclosures made on or after January 23, 2002, except that no disclosures may be made under this section after December 31, 2003.

SEC. 8. (a) (1) For purposes of the Internal Revenue Code of 1986, as applicable for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code, payments made by an organization described in Section 501(c)(3) of the Internal Revenue Code by reason of the death, injury, wounding, or illness of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, shall be treated as related to the purpose or function constituting the basis for that organization's exemption under Section 501 of the Internal Revenue Code, if the payments are made in good faith using a reasonable and objective formula that is consistently applied.

(2) This subdivision shall apply to payments made on or after September 11, 2001.

(b) For purposes of the Internal Revenue Code of 1986, as applicable for purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code, both of the following shall apply:

(1) Gross income does not include any amount that, but for this section, would be includable in gross income by reason of the discharge, in whole or in part, of indebtedness of any taxpayer if



the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

(2) Return requirements under Section 6050P of the Internal Revenue Code, shall not apply to any discharge described in paragraph (1).

(3) This subdivision shall apply to discharges made on or after September 11, 2001, and before January 1, 2002.

SEC. 9. The amendments made by this act to Sections 18572 and 19109 of the Revenue and Taxation Code apply to any disaster that occurs on or after September 11, 2001.

SEC. 10. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.



Approved _____, 2002

Governor

